IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA, 1928

CRL.A.No. 2071 of 2005(A)

{S.TNO.2948/2004 OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-V, KOZHIKODE}

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APPELLANT: COMPLAINANT.

K.ABDUL LATHEEF, AGED 33 YEARS,
S/O.SAIDALIKUTTY, KURUNGOTTA HOUSE,
MATHOTTAM ARAKKAINAR, KOZHIKODE DISTRICT,
WITH IN THE TLIMITED OF BEYPORE POLICE STATION.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS: ACCUSED & STATE

1. SHARAF, KOYAMBRATH HOUSE,
MAKKADA P.O,. CALICUT DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R1 BY ADV. SRI.A.KRISHNAN
R2 BY PUBLIC PROSECUTOR SRI.BENNY GERVACIS

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.A.ABDUL GAFOOR, J.**

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**Crl.M.Appln. 5761 of 2006**
**& Cr.A.No.2071 of 2005**

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**Dated this the 3rd day of January, 2006.**

**O R D E R**

The criminal appeal stands dismissed for default of the appellant. Now, the appellant has filed the application [Crl.M.Appln.5761 of 2006] to restore the appeal back on file.

2. But a closer scrutiny of the records reveals that the appellant was in the constant habit of absenting himself in the court. He happened to carry this appeal only when his complaint has been dismissed because of his absence. Again, the appeal has been dismissed because of his absence and his counsel. That is why I have stated at the outset that this is his constant conduct.

Anyhow, taking note that he did not have an opportunity to prosecute his case, I am of the view that the appeal shall be restored to file on condition of

paying a sum of Rs.7,500/- to the counsel for the respondent/accused appearing in this case, within a period of two weeks. In case the cost is not paid within two weeks, the judgment dated 29.5.2006 will revive and the Crl.M.Appln.No.5761 of 2006 and the appeal shall stand dismissed.

Crl.M.Appln. 5761 of 2006 and the appeal are disposed of accordingly.

**(K.A.ABDUL GAFOOR)**
**JUDGE**

sk/

**K.A.ABDUL GAFOOR , J.**

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**Crl.M.Appln. 5761 of 2006**
**& Cr.A.No.2071 of 2005**

**O R D E R**

**3rd January, 2007.**

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